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FISCAL IMPACT REPORT

SPONSOR: SCONC DATE TYPED: 02/12/02 HB _____
 SHORT TITLE: Pecos River Water Rights SB 271/SCONCS/aHAGC
 ANALYST: Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		\$0.1 See Narrative		Non-Recurring	Irrigation Works Construction Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB225

SOURCES OF INFORMATION

LFC Files
Office of the State Engineer (OSE)

SUMMARY

Synopsis of HAGC Amendment

Additional conditions were placed upon Pecos River water right purchases.

1. The purchases are to establish a base flow of fifty cubic feet per second at the Artesia Bridge, provide a reliable annual irrigation supply of 90,000 acre-feet to the Carlsbad Irrigation District (CID) and to meet delivery requirements to Texas.
2. ISC may purchase water rights or land with appurtenant water rights; however, for purchases within CID, the Pecos Valley Artesian Conservancy District and the Fort Sumner Irrigation District, the ISC may not enter into individual purchases unless they have entered into a contract with the governing bodies of those districts.
3. The first purchases shall be 6,000 acres in approximately equal purchase increments from assessed land within CID and irrigated land between Brantley Dam and Sumner Reservoir and subsequent purchases shall be at the ratio of three acres between Brantley Dam and Sumner Reservoir for each acre within CID.
4. Requests for bids shall provide for competition among the owners of land, and contain criteria on the effectiveness of the purchase in resulting in increasing river flows and to address the different value purchases based on the seniority of the right.

5. If excess rights and land are purchased as part of this program, ISC may offer these for sale and deposit the revenue in the Irrigation Works Construction Fund.

The citation for the United States Supreme Court amended decree in *Texas v. New Mexico* is changed to “No. 65 original”.

Synopsis of Substitute Bill

The Senate Conservation Committee substitute for SB71 extends the 1988 appropriation from the Irrigation Works Construction Fund (Laws 1998, Chapter 81, Sections 3 and 4 to the end of fiscal year 2004 for the purpose of purchasing and retiring water rights along the Pecos river basin. The bill also adds Laws 1998, Chapter 81, Section 2 to the sections to be extended, and identifies two previous extensions (Laws 1999 (1st S.S. Chapter 2, Section 84 and Laws 2000 (2nd S.S.) Chapter 23, Section 25). The original appropriation from the Irrigation Works Construction Fund will be extended to the end of fiscal year 2004 for the purpose of purchasing and retiring water rights along the Pecos river basin.

Significant Issues

The state is obligated to meet compact water delivery requirements to Texas and is under a United States Supreme Court (USSC) decree to do so since 1988. The state has been able to meet these requirements; however, it has been barely able to do. The River Master will issue an accounting by May 2002 for calendar year 2001. The state expects that they will meet the requirement but will have used all reserves accumulated since 1987 in doing so. OSE states that water depletions in the Pecos river basin must be reduced or water flow increased in order to meet the compact requirements.

OSE suggests that this bill would allow implementation of an element of the consensus plan developed for compliance with the USSC decree. The current water supply in the Pecos River basin is at

below-average levels, and this bill would allow actions to reduce use along the river. Approximately \$4 million dollars remains in the original appropriation.

FISCAL IMPLICATIONS

The bill extends the appropriation until the end of fiscal year 2004. Any unexpended or unencumbered balance remaining at the end of fiscal year 2004 shall revert to the Irrigation Works Construction Fund.

RELATIONSHIP

This relates to HB 225.

TECHNICAL ISSUES

OSE requests the following change: Section 1, item A, line 21 insert after “Chapter 81” the following: “Section 2, for retiring water rights along the Pecos river basin; and Laws 1998.”

GAC/ar/njw